

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
HELENA DIVISION**

MYCHEAL KINARD

PLAINTIFF

V.

2:04CV00203 GH/JTR

JEANETTE BEALES,
Administrator, Phillips County Jail

DEFENDANT

ORDER

On November 3, 2005, the Court issued an Order giving Defendant Jeanette Beales eleven days to file a Response explaining why she should not be held in default for failing to file an Answer to Plaintiff's *pro se* Complaint. *See* docket entry #24. On November 16, 2005, Defendant timely filed a Response indicating that her secretary, Verna Ternage, accepted service on Defendant's behalf but subsequently failed to deliver the Summons and Complaint to Defendant. *See* docket entry #27. Accordingly, Defendant requests that the Court not enter default judgment against her and accept her Answer as timely filed. *Id.* The Court finds good cause for granting both requests.

Now that the only Defendant remaining in this action has filed an Answer, the case is ready to be set for an Evidentiary Hearing/Trial.¹ Accordingly, a Scheduling Order setting various deadlines and setting this case for an Evidentiary Hearing/ Trial will be entered separately.

IT IS THEREFORE ORDERED THAT Defendant Beales' November 16, 2005 Answer (docket entry #28) is deemed timely filed.

¹ The parties have not consented to proceed before a United States Magistrate Judge, and neither party has requested a jury trial. Thus, if the case proceeds to an Evidentiary Hearing/Trial: (1) the Court will issue Proposed Findings and a Recommended Disposition; (2) the parties will be given an opportunity to file objections thereto; and (3) the Honorable George Howard, Jr., the United States District Judge assigned to this case, will either adopt or reject the Recommended Disposition. The same procedure will be followed if any dispositive motions are filed.

Dated this 21st day of November, 2005.


UNITED STATES MAGISTRATE JUDGE